

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

FREDERICK MCDALE

PLAINTIFF

vs.

Civil Action Number: 2:04CV299-B-B

BELLSOUTH, INC., ET AL.

DEFENDANTS

ORDER

Came on to be considered this day the Report and Recommendation of the United States Magistrate Judge to which this case is assigned, recommending to this court that the attorney for the plaintiff herein, Wilbert Levon Johnson, be suspended from practicing law before this court until he has demonstrated a willingness to discharge his responsibilities as an attorney in a professional manner, and that the above-styled case be dismissed for attorney neglect..

The court ordered Mr. Johnson to appear before the court in Oxford in order to explain why, if he can, the report and recommendations should not be carried out. Mr. Johnson appeared before the court and was obviously contrite and apologized for his negligence in failing to submit the confidential memorandum to the magistrate judge as called for and for not appearing at the telephonic case management conference called in this case. Mr. Johnson advised the court that he has never been late or failed to appear for any other judge in his years of practice and that if granted some consideration in this case, he would not fail to appear or carry out any orders of a judge of this court in the future.

After considering the facts herein and the attorney's response, the court is of the opinion that the attorney should not be suspended at this time and that he has exhibited to the court that he is truly apologetic for what happened, that he takes full responsibility for what happened and that it will not happen again. The court accepts the attorney's explanation and his assurance that at no time in the

future will any such actions on his part occur. Therefore, the court will not order him suspended at this time since this is, according to Mr. Johnson, the first time in his years of practice that any such negligence on his part has existed. Mr. Johnson has advised this court that he and his client do not object to this cause being dismissed with prejudice and the court so **ORDERS that the above-styled case is DISMISSED with prejudice.**

ORDERED AND ADJUDGED this the 2nd day of February, 2006.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.
SENIOR U.S. DISTRICT JUDGE